

Eastham Conservation Commission

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**Eastham Conservation Commission
2500 State Highway
Earle Mountain Room
February 9, 2016 (postponed to February 16, 2016)
Public Hearing
MINUTES**

Commissioners Present: Chairman Michael Harnett, James Baughman, Thomas Durkin, Alexander Cestaro and Shelia Filipowski.

Commissioners Not Present: Steven LaBranche.

Staff Present: Shana Brogan.

Also Present: Catherine Ricks of Coastal Engineering, Attorney Glenn Wood, Lee Wishar of Woods Hole, Tim Brady of East Cape Engineering, Caitrin Higgins Wilkinson Ecological Design, Jason Ellis of JC Ellis Design, David Lajoie of Felco Engineering, Jeff Spiegel, Michael and Mary Moniz.

6:00 PM

Chairman Harnett opened the hearing.

Notice of Intent filed by Kim Salva. Applicant proposes installation of a septic system and removal of invasive vegetation and planting native vegetation at property located at 20 Beach Road, Map 19, Parcel 028A.

Jason Ellis was present to speak to the project. He noted the leach field is too close to groundwater and a new Innovative and Alternative (I/A) septic system would be installed. He noted the septic was approved by the Board of Health and the leach field would be in same location. Mr. Ellis noted an area of Japanese knotweed and a hedgerow on east side of property would be removed. He noted the bayberry and honeysuckle are overrun with vines. Mr. Ellis noted due to Area of Critical Environmental Concern (ACEC) there would be no use of chemicals on the invasives. He also noted Natural Heritage Endangered Species Program (NHESP) has not responded to his filing. Chairman Harnett noted the house was for sale and the removal of invasives would require continuous removal over a long period of years. Mr. Ellis noted the buyer would like the removal and would use Keith Johnson to perform the work. James Baughman said there needs to be persistence on the invasive removal. Mr. Ellis noted the native plant list on the plan showed twenty-six shrubs that would be left in place. The new property owners would undertake a lot of the labor and have Keith Johnson supervise

them with the invasives removal. There was discussion regarding the invasives and the removal of the willow tree. The commission asked for an updated plan with more plantings. Billingsgate Land Management would oversee the project. Mr. Ellis to add ten more shrubs to the planting plan. The commission noted Keith Johnson would have to complete the knotweed removal.

James Baughman **MOVED** to continue to February 23, 2016, **Sheila Filipowski SECONDED.**

ALL IN FAVOR.

Continuation of Notice of Intent filed by Ken & Tara Mitchell. Applicant proposes 103' rock revetment at property located at 365 Shurtleff Road, Map 07, Parcel 164.

Catherine Ricks, Glen Wood, Lee Wishar were all present to speak to the project.

Ms. Ricks noted the shoreline has extensive structures to the north of the property. She noted most coastal engineered structures do not replace sand that has contributed to the erosion of the shoreline. Ms. Ricks noted the top of the revetment continues to retreat and becomes undercut. There is a pump house close to top of bank. Mr. Wishar read through 310 CMR 1030(3) and the regulations. He noted he has worked with the Department of Environmental Protection (DEP) when a commission misinterpreted a rebuild as permissible. Mr. Wishar noted the DEP agrees that the project is a permissible project and they would issue a Superseding Order of Conditions.

Attorney Wood noted they have submitted four letters for no coastal structure when the new house was built to the commission. The commission discussed the Warner case and noted the condition attached does not bind the property indefinitely. Chairman Harnett noted that he disagrees with the Warner case. He noted the building is eighty-five feet from the top of the bank and the house is not going to be in any danger for at least sixty years. Mr. Wishar said the erosion rate is going to be accelerated and the well and septic would be in danger of becoming unusable. Chairman Harnett noted town water would be ready before that happens to the well and septic. Mr. Wishar mentioned short term erosion rates. Thomas Durkin noted the house is not grandfathered and mentioned the Scott Glass DEP case in Chatham and this project is similar.

Mr. Baughman noted the language of reconstruction and that in emails from DEP the applicant has the burden to prove that the house is a reconstruction and not a complete rebuild. Mr. Baughman noted the commission expects the applicant to come to them with the information and no one has put any evidence in front of the commission proven the house was a reconstruction project. Mr. Baughman noted the commission does not have the authority to approve this project. Attorney Wood noted there was a house on the property and it is allowed to be protected. Mr. Baughman noted the commission has nothing in writing saying anything about or proving the house being protected from coastal storms.

Thomas Durkin **MOVED**, to deny the Notice of Intent for the installation of a revetment, James Baughman **SECONDED.**

Mike Harnett voted to deny the rock revetment.

Thomas Durkin voted to deny the rock revetment

James Baughman voted to deny the rock revetment

Alexander Cestaro Opposed.

Sheila Filipowski Abstained.

MOTION PASSES.

3-1-1.

Continuation of Notice of Intent filed by Michael & Mary Moniz. Applicant proposes three outdoor showers, construction of three wooden decks a screen porch, reconstruction of an existing wooden deck, demolishing and construction of an addition, removal of old shed and construction of a 6' x 13' shed on a coastal stairway at property located at 40 Smith Heights Way, Map 18, Parcel 054.

6:54PM

Tim Brady was present to speak to the project. He noted looking at the top of the bank there is not much of a buffer. Mr. Brady noted he would remove the Russian sage and wild rye grass from the planting plan.

James Baughman **MOVED** to approve the construction project, Alexander Cestaro **SECONDED**.

ALL IN FAVOR.

Continuation of Notice of Intent filed by James Baughman. Applicant proposes removal of invasive vegetation in both wetland and upland areas with the use of herbicides, planting native plants and replacement of a pond stairway at property located at 300 Samoset Road, Map 14 Parcel 135.

Tim Brady and Caitrin Higgins were present to speak to the project. Ms. Higgins noted the sloping topography was covered in English ivy. She noted the ivy has shallow roots and the removal of the ivy is essential. Ms. Higgins noted they would not treat any of the native grasses. Ms. Higgins noted the use of herbicides is only to get ahead of the ivy so the rest of the restoration can take place. She proposed seven thousand square feet of restoration in an effort to improve the habitat of the property. Chairman Harnett noted he was in favor of the ivy removal, but questioned the process of the work. Ms. Higgins noted hand removal has implications on the project and would be very costly. She noted the best time of the year for removal would be spring and summer. Ms. Higgins noted the wipe method on the ivy is the best way to remove it and that the herbicide is active for thirty to sixty days.

Alexander Cestaro **MOVED** to approve the removal of invasives and replace stairway, Thomas Durkin **SECONDED**.

ALL IN FAVOR.

Request for Determination of Applicability filed by Martin Ridge for the removal of eight diseased trees and the planting of two Tupelo trees within the resource area located at 150 Crosby Village Road, Map 01, Parcel 078.

The commission discussed the mitigation involved with removing eight trees. Winterberry, blueberry, pepperbushes and Tupelo trees are possibilities the commission would like to discuss with the property owner.

James Baughman **MOVED** to continue to February 23, 2016, Alexander Cestaro **SECONDED**.

ALL IN FAVOR.

Request for Certificate of Compliance filed by Margaret Maier for DEP SE 19-1407 for installation of a septic system at property located at 3 West Shore Drive, Map 7A, Parcel 003.

The commission requested the applicant submit a letter from the engineer stating the septic was installed according to plan.

James Baughman **MOVED** to continue to February 23, 2016, Alexander Cestaro **SECONDED**.
ALL IN FAVOR.

Ratification of Enforcement Order for unauthorized construction of timber retaining walls and stairway within a coastal dune at property located at 27 Longstreet Lane, Map 10, Parcel 333.

Sheila Filipowski **MOVED** to ratify enforcement order, Alexander Cestaro **SECONDED**.
ALL IN FAVOR.

795 Bridge Road

Jeff Spiegel noted the house has electrical problems and the property owner does not have water and only has use of a few lights. Mr. Spiegel proposed to dig a one foot trench from a pole on the street to make an electrical repair.

Alexander Cestaro **MOVED** to approve the repair, Thomas Durkin **SECONDED**.
ALL IN FAVOR.

Administrative Reviews

Proposed removal of a Mimosa tree at property located at 5 Bayberry Lane, Map 13, Parcel 145.

The commission requested a cedar tree planted as mitigation.

Sheila Filipowski **MOVED** to approve the removal of tree, Thomas Durkin **SECONDED**.
ALL IN FAVOR.

Proposed installation of a new septic system at property located at 105 Shurtleff Road, Map 10, Parcel 237.

The commission requested the applicant to file a Request for Determination of Applicability for the septic installation.

Other Discussion

Unauthorized construction of a shed and removal of vegetation within 100' of Herring Pond at property located at 100 Lawton Road, Map 14, Parcel 046.

The commission requested an enforcement order be issued and required an after the fact filing.

Preliminary discussion regarding process and content of new potential regulations under the Eastham Wetlands Bylaw.

No discussion.

Liaison Reports (1651 Forest Advisory Committee, Community Preservation Committee, Open Space Committee)

No discussion.

Approval of Minutes

January 12, 2016

James Baughman **MOVED** to approve the minutes, Thomas Durkin **SECONDED**.
ALL IN FAVOR.

January 26, 2016

James Baughman **MOVED** to approve the minutes, Thomas Durkin **SECONDED**.
ALL IN FAVOR.

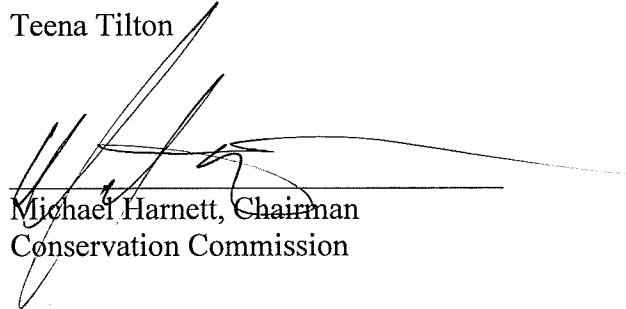
Adjournment

James Baughman **MOVED** to adjourn, Shelia Filipowski **SECONDED**.
ALL IN FAVOR.

Respectfully Submitted as prepared by,



Teena Tilton



Michael Harnett, Chairman
Conservation Commission